UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,451	07/18/2007	Domenico Fanara	06-796	9142

20306 7590 01/05/2010

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

EXAMINER	
THOMAS, TIMOTHY P	
ART UNIT	PAPER NUMBER
1628	

MAIL DATE	DELIVERY MODE
01/05/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	10/599,451	FANARA ET AL.	
	Examiner	Art Unit	
	TIMOTHY P. THOMAS	1628	

All Participants:

(1) *TIMOTHY P. THOMAS*.

(2) *Michael Greenfield*.

Status of Application: _____

(3) _____.

(4) _____.

Date of Interview: *30 December 2009*

Time: *9:00 a.m.*

Type of Interview:
☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☒ No
If Yes, provide a brief description: .

Part I.

Rejection(s) discussed:
See Continuation Sheet

Claims discussed:
1, 6-8, 14-15, 18, 22

Prior art documents discussed:
Doron et al. ("Antibacterial effect of parabens against planktonic and biofilm Streptococcus sobrinus"; 2001 International Journal of Antimicrobial Agents; 18: 575-578)

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
See Continuation Sheet

Part III.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

/Timothy P Thomas/
Examiner, Art Unit 1628

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of rejections discussed: Claims 1-2, 5, 12 and 17, rejected under 35 U.S.C. 103(a) as being unpatentable over DeLongueville et al. (WO 02/47689 A2; IDS 12/18/2008 reference); Gilliland et al. (Gilliland 1) ("The bactericidal activity of a methyl and propyl parabens combination: isothermal and non-isothermal studies"; 1992; Journal of Applied Bacteriology; 72: 252-257); Gilliland et al. (Gilliland 2) ("Kinetic evaluation of claimed synergistic paraben combinations using a factorial design"; 1992; Journal of Applied Bacteriology; 72: 258-261); in view of Routledge et al. ("Some Alkyl Hydroxy Benzoate Preservatives (Parabens) Are Estrogenic"; 1998; Toxicology and Applied Pharmacology; 153: 12-19).

Continuation of Substance of Interview including description of the general nature of what was discussed: The reply of record is considered to be persuasive with respect to the prior art rejection of record, based on an unexpected result disclosed in the specification. However, the upper limit of claim 1 has been increased to 1.125 mg/ml. Looking at the Doron reference, which is of record, the reference is suggestive that an amount of just above 0.9% [MP] + [PP] (0.06 + 0.03) would be expected to result in solutions with 0% bacterial growth, based on the data of Figure 1; i.e., 0% bacterial growth would be expected from interpolation of the data at concentrations of just under 1.125 mg/mL. It was proposed that the claim be limited to 1 mg/mL or less as the upper amount, in place of "less than 1.125 mg/mL". Since the basis of overcoming a rejection that would include the Doron reference would be unexpected results, the lowest amount for which there is an unexpected result in the specification is 0.375 mg/mL. It was therefore proposed that the lower limit of claim 1 be 0.375 or greater, in place of the amount of more than 0, currently in claim 1. The range of 0.375 to 1 mg/mL is commensurate in scope to the data for which unexpected results are present in the disclosure.

It was noted that should claim 1 be amended as proposed, and the dependent claims be amended in a corresponding manner, the case would be discussed with supervisors for consideration of whether the claims are patentable. Considering the withdrawn claim components of claims 6-8, each of these compounds are known antimicrobial agents; inclusion of these compounds would no longer lead to an unexpected result when any of the additional compounds are present; i.e., should claim 1 be determined to be allowable, claims 6-8 are not automatically also allowable. Claim 18 would need to contain the limitations of claim 1 to be considered for rejoinder; as would claim 22, should claim 1 be determined to be allowable. .